THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4306 OF 2002

Between

V.Kumara Swamy son of Sailu

…Petitioner

vs.

The Deputy General manager, IRCON ,Ramagundam and three others.

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4306 OF 2002

ORAL ORDER

The writ petition is directed against an award of the Labour Court, Warangal dated 24-08-2001 rejecting the petitioner's claim in I.D.Case No.12 of 1998.

According to the petitioner he was appointed as a driver on 07-10-1981 under the control of the 3rd respondent herein at its Ramagundam project and he continuously worked as driver at Ramagundam project from 1981-1984. The 3rd respondent undertook a project at Iraq and sought willingness from its employees to work at Iraq project. The petitioner having expressed his willingness was relieved at the Ramagundam project on 24-03-1984. He worked on the Iraq project from April,1984 to 29-08-1987. The petitioner also claimed that he was repatriated to the Corporate Office of the company by orders dated 29-07-1987 with a direction to report to his Corporate Office, New Delhi. Despite the above, the petitioner was not reinstated or taken back into service. He made several representations and then filed W.P.No.30565 of 1997 in this Court. The writ petition was disposed of on 13-04-1998 calling upon the petitioner to purse the alternative remedy before the Labour Court. There upon he filed I.D.No.12 of 1998. He claimed that though he worked more than 240 days in a calendar year preceding the date of his termination (in 1987), the respondents failed to follow the requirements under Section 25-F of the Industrial Disputes Act,1947 (for short "the Act') and the termination was illegal.

On behalf of the respondents in the counter-affidavit before the Labour Court it was contended that the Labour Court had no jurisdiction under Section 2-A(2) of the Act as the Ircon Company is a Government of India Company and that no cause of

action pertaining to this dispute arose within the territorial jurisdiction of the Warangal Tribunal. The respondents also contended that the claim of the petitioner in I.D.No.12 of 1998 was barred by latches and delay as he had approached the Tribunal after a considerable delay of more than ten (10) years after arisal of the cause of action. On merits the respondents asserted that the petitioner was appointed as driver only on daily wage basis in the Ramagundam project, the appointment was a work charged appointment terminable on the closure of the project, its an adhoc appointment to be terminated on the completion of the project and that while working at Ramagundam project the petitioner had voluntarily offered to work at Iraq on a contract basis, left for Iraq and after completion of work in the Iraq project he came back to India on expiry of the period of contract. The respondents categorically and unequivocally asserted that the petitioner had no right or lien to claim any employment with the respondents-Company, the petitioner was not a regular employee either of third respondent-Company or of its Ramagundam project and that the petitioner's claim to having worked continuously in Ircon in 1981-1987 is false. Reiterating the petitioner's status with regard to the Iraq project, the respondents contended that the petitioner was offered work in the Iraq project even after his coming back to India but he declined willingness to work in the Iraq project. Ramagundam project having been completed the petitioner is not entitled to any of the relevant claims. The respondents also asserted that the Warangal Tribunal had no jurisdiction to entertain a petition for reinstatement of the petitioner in relation to the Iraq project.

On the basis of the oral and documentary evidence on record the Labour Court, Warrangal categorically concluded and rightly that there was no evidence to establish the petitioner's claim to a regular employment with the Ramagundam project in the context of the petitioner having come to the Tribunal more than ten(10) years after the arisal of the cause of action and in a situation where the records relating to the Ramagundam project and the Ircon Project too were destroyed (as per the evidence-Ex.M-2), the petitioner cannot be held to have established the status of a regular employment with either Ircon or its Ramagundam project. If that be so, held Tribunal rightly, the petitioner's tenure of work with the Iraq project was an independent and contractual tenure unrelated to his casual service in the Ramagundam project. The Tribunal implied that the petitioner was not deputed to work on the Iraq project while continuing his employee nexus in the Ramagundam project. As there was a cessation of the petitioner's service in the Ramagundam

project in 1984 and with the Iraq project in 1987 the petitioner cannot claim reinstatement into service or continuity of service in the Ramagundam project. The Tribunal also held that the petitioner's claim must fail on account of the unexplained and inordinate delay and latches in approaching the Tribunal more than ten(10) years after arisal of the cause of action. The Tribunal further held that the petitioner failed to establish his claim to a regular employment with the Ircon either in the Ramagundam project or Iraq project and therefore he is not entitled to any of the reliefs sought. With regard to the jurisdiction of the warangal Tribunal, the Tribunal held that as no part of the cause of action had arisen within the territorial jurisdiction of the Warangal Tribunal, the Ramagundam project being located in Karimnagar district and the Iraq project *ex-facie* being located beyond the territories of the India, Warangal Tribunal had no territorial jurisdiction to adjudicate upon the issues presented for its consideration.

On the conspectus of the oral and documentary evidence the Tribunal by a cogent and rational process of analysis rightly concluded that the petitioner was not entitled to any relief.

This Court finds no error either in the application of law or exercise of discretion by the Tribunal, warranting interference in this writ petition

The writ petition is without merits and must fail and is accordingly dismissed. Though in the circumstances without costs.

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GODA RAGHURAM,J

16th NOVEMBER 2005

*TSNR